

August 3, 2005

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E0400489**

ERNEST SELIGER, JEFF SAVAGE and KIM FURNEY
Code Enforcement Appeal

Location: 35725 and 35631 Veazie-Cumberland Road Southeast

Appellants: **Ernest Seliger**
35725 Veazie-Cumberland Road Southeast
Enumclaw, Washington 98022
Telephone: (360) 886-2781

Jeff Savage
4430 South 160th Street
Tukwila, Washington 98188
Telephone: (206) 242-6066

Kim Furney
35432 Cumberland Way Southeast
Enumclaw, Washington 98022

King County: Department of Development and Environmental Services,
represented by **Jim Toole**
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-7196
Facsimile: (206) 296-6604

SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:	Deny appeal; extend dates of compliance
Department's Final Recommendation:	Deny appeal; extend dates of compliance
Examiner's Decision:	Deny appeal; extend dates of compliance

EXAMINER PROCEEDINGS:

Hearing Opened:	July 11, 2005
Hearing Closed:	July 11, 2005

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. On May 5, 2005, the King County Department of Development and Environmental Services (DDES) issued a Notice and Order to Ernest Seliger, Jeff Savage, and Kim Furney that alleges code violations at two properties located at 35725 and 35631 Veazie-Cumberland Road Southeast. The Notice and Order cites violations by:
 - “1. Accumulation of inoperable vehicles, motorcycles, recreational vehicles, commercial buses, heavy equipment, and vehicle parts throughout the premises of the site in violation of Sections 21A.32.230 and 23.10.040 of the King County Code. Parking/storage of vehicles on non-impervious (unimproved) surfaces in violation of Section 21A.18.110 (I) of the King County Code.
 - “2. Accumulation of assorted rubbish, salvage and debris (including but not limited to household goods, appliances, scrap metal, scrap wood, scrap iron, metal & plastic drums, glass, and plastic) throughout the premises of the site in violation of Section 21A.32.230 of the King County Code and Section 307 of the 2003 International Property Maintenance Code.
 - “3. Occupancy of substandard dwelling unit. The cabin located on Parcel 282107-9101 is substandard in the following instances:
 - a. Missing smoke detectors.
 - b. Broken windows.
 - c. Improperly installed and/or defective electrical components including, but not limited to, service panel, wiring, junction boxes, outlets, and switches.
 - d. Insufficient heating capacity and defective heat supply. (The woodstove is the sole source of heat for this cabin. This woodstove is old and does not meet current building and fire codes).
 - e. Accumulation of garbage, rubbish, salvage, and debris throughout the cabins interior and exterior (parking lot, yard areas, accessory structure, laundry, hallways).
 - f. Defective (deadbolt, dead latch, locking mechanism) and ill-fitting components on entry door(s).
 - g. Inadequate weatherproofing due to lack of protective treatment on exterior walls, foundations, window, or door components including caulking, weather stripping, thresholds and other infiltration areas (including, but not limited to gutters, roof).
 - h. Dry rot and insect damage to the support beams, doors frames/thresholds, and other areas throughout the cabin.

These substandard conditions violate Section 16.14.100, 21A.32.230 of the King County Code, Sections 202, 304.13, 305.15, 304.2, 304.6, 304.7, 307, 602, 604.3, and 704.2 of the 2003 International Property Maintenance Code, and Sections 106.1, 106.2, 801.7, 801.10.1, 801.10.02, 905.1 and 905.2 of the 2003 International Mechanical Code.”

2. The Notice and Order imposed the following correction requirements and schedule:

- “1. Remove **ALL** inoperable vehicles, motorcycles, recreational vehicles, commercial buses, and vehicle parts from the premises or store these materials within a fully enclosed building (**ALL** inoperable and operable vehicles, motorcycles, recreational vehicles, commercial buses, and vehicle parts that do not belong to occupants of the property must be removed from both cited parcels). All remaining vehicles must cease parking on non-impervious surfaces. All compliance requirements must be accomplished by **July 5, 2005**.

If you wish to have King County Code Enforcement issue Junk Vehicle Certification for any cars, motorcycles, recreational vehicles, etc., you will be required to have them sorted out where the vin numbers are visible for inspection. You will need to schedule the inspection far enough in advance to meet the deadlines for removal as outlined in this order.

ALL automotive repair equipment located throughout both cited parcels that do not belong to the occupants of the property must be removed from both cited parcels by **June 6, 2005**. **ALL** automotive repair equipment located throughout both cited parcels that belongs to the occupants of the property must be stored within a fully enclosed building by **July 5, 2005**.

The self-loader(s), dozer(s), LeTourneau Log stacker(s), and other heavy equipment used for the forest industry by the occupant of the property are allowed to remain. All heavy equipment must be stored in the area directly located to the south of the primary residence and all heavy equipment parts must be stored within a fully enclosed building by **July 5, 2005**. **ALL** heavy equipment and heavy equipment parts that do not belong to the occupant of the property must be removed from both cited parcels by **June 6, 2005**.

- “2. Remove **ALL** assorted rubbish, salvage, and debris from the premises by **July 5, 2005**.
- “3. **Immediately vacate the cabin and maintain the cabin closed to entry until approved for occupancy by this department**. Make the necessary repairs and/or corrections so that the structure and premises meet the minimum standards of the 2003 International Property Maintenance Code by **July 5, 2005**. A permit must be applied for and obtained by **July 5, 2005** for any repair work such as the replacement of the woodstove that requires a permit.

OR

Obtain a demolition permit and demolish the structure (cabin) and remove the demolition debris from the property by **July 5, 2005**. Burning of anything except vegetation is not allowed per the International Fire Code.”

3. Appeals from the Notice and Order were filed in a timely fashion, one by the three cited parties in concert and a separate one by Jeff Savage individually. (Mr. Seliger is the owner of the property and Mr. Furney a tenant; Mr. Savage is another cited party who has brought vehicles and vehicle parts onto the site for temporary storage.) The appeals do not dispute the basic violations charged by the Notice and Order, but request extensions of time to complete the corrective activities which have already commenced. Mr. Seliger and Mr. Savage mistakenly understood that county regulations allowed unlimited temporary storage of inoperable vehicles and vehicle parts on the subject property. They state that the vehicles and parts are now in the process of all being removed, with a substantial number already removed from the property. They request additional time for compliance, with Mr. Savage stating that the corrective actions which he intends to complete have been delayed by health problems and financial limitations. Mr. Savage further asserts that no wrecking activities have been conducted on the site, particularly no parts removal (from a business or hobby sense; some parts theft and vandalism has occurred. The property with its relatively unsecured property boundaries and its rich supply of vehicles and vehicle parts is akin to an attractive nuisance, attracting thieves.)
4. Portions of the required code-compliance corrections for the cabin have been completed and are acknowledged by DDES as resolved. Correction items 5, 6 and 7 (see exh. 8) have been resolved by removal of the shed in question; item 9's electrical corrections have been approved as complete and in code compliance after formal inspection; item 10 has been resolved by installation of a smoke detector; and item 11 has been resolved by replacement of floor sheathing and doors.
5. Mr. Savage is considered by DDES and the City of Des Moines to be a repeat violator, and both agencies are concerned that removal of his inoperable vehicles and vehicle parts from this site be conducted so that they are not merely relocated in a fashion resulting in similar violations elsewhere.¹
6. DDES has received some cooperation in resolving the violations and stated that it maintains a reasonable degree of flexibility with regard to the correction items under the responsibility of Mr. Seliger and Mr. Furney (should any unforeseen problems arise in achieving final compliance), but due to Mr. Savage's repeat violation status insofar as DDES and the City of Des Moines are concerned, DDES desires (and imposed in the Notice and Order) a relatively tight timeline for Mr. Savage so that compliance is achieved in a diligent and proper fashion.
7. The evidence in the record supports a finding that the charges of violation in the Notice and Order are correct, which is reflected by the appeals' lack of defense to the basic of violation and the essence of the appeals being requests for additional time to achieve compliance. As noted, DDES has stipulated to resolution of some of the cabin violations.

¹ The issue of repeat violation by Mr. Savage is considered only with respect to the appropriate terms of correction requirements; it is not taken into account in any manner in deciding the basic finding of code violation.

CONCLUSIONS:

1. The charges of violation in the Notice and Order are found to be correct and are sustained. Given the time taken up by the appeal process, the deadlines in the Notice and Order shall be extended generally as recommended by DDES, with a review check required at an interim period to ensure steady progress toward final compliance by the named parties.

DECISION:

The appeals of the Notice and Order are **DENIED** except that the deadlines for regulatory compliance are revised and extended as stated in the following order.

ORDER:

1. All operable and inoperable vehicles, recreational vehicles, commercial buses, motorcycles, vehicle parts, automotive repair equipment, rubbish, salvage, and debris that belong to and/or are otherwise the responsibility of **Jeff Savage** shall be removed from both parcels by *no later than* **September 15, 2005**.
2. All inoperable vehicles, rubbish, salvage, and debris that belong to and/or are otherwise the responsibility of **Kim Furney** shall be removed from both parcels by *no later than* **October 31, 2005**. All operable vehicles that belong to Kim Furney shall be parked in accordance to King County Zoning Code by *no later than* **September 15, 2005**.
3. All inoperable vehicles, rubbish, salvage, and debris that belong to and/or are otherwise the responsibility of **Ernest Seliger** shall be removed from both parcels by *no later than* **October 31, 2005**. All operable vehicles that belong to Ernest Seliger shall be parked in accordance to King County Zoning Code by *no later than* **September 15, 2005**. By *no later than* **October 31, 2005**, all heavy equipment that belongs to **Ernest Seliger** (self-loader(s), dozer(s), LeTourneau Log stacker(s), etc.) that has been and is currently used for his forestry business shall be parked on an approved impervious surface in the area to the south of the primary residence, and all heavy equipment parts shall be stored within a fully enclosed building.
4. All automotive repair equipment and vehicle parts located throughout both cited parcels that belong to the occupant(s) and/or owner(s) of the property shall be stored within a fully enclosed building by *no later than* **October 31, 2005**.
5. Aside from the above removal requirements, all automotive repair equipment, inoperable vehicles, operable vehicles, vehicle parts, heavy equipment, heavy equipment parts, rubbish, salvage, and debris that do not belong to an owner and/or legal occupant of the property shall be removed from both cited parcels by *no later than* **October 31, 2005**.
6. Receipts for disposal of all the items removed from this property shall be submitted to DDES to verify that items were removed to legal disposal/recycling/storage facilities. Receipts shall be submitted to DDES **within 30 days** of the date of disposal.

7. The necessary repairs and/or corrections shall be performed so that the cabin structure and premises meet the minimum standards of the 2003 International Property Maintenance Code by *no later than* **October 31, 2005**. Any required permits for such work shall be applied for and obtained by *no later than* **September 30, 2005**.
8. The Appellants and/or their representative(s) and DDES shall engage in a progress meeting on the site on or around **September 30, 2005**, to monitor progress and address any remaining impediments to obtaining full compliance by **October 31, 2005**.
9. No penalties shall be assessed against the Appellants or the properties if the above conditions are met. If any of the deadlines stated in the above conditions is not met, DDES may assess penalties against the pertinent Appellant(s) and the pertinent property(ies) retroactive to the date of this order.

ORDERED this 3rd day of August, 2005.

Peter T. Donahue, Deputy
King County Hearing Examiner

TRANSMITTED this 3rd day of August, 2005, via certified mail to the following:

Ernest Seliger	Jeff Savage	Kim Furney
35725 Veazie Cumberland Rd.	4430 S. 160 th St.	35631 Cumberland Way SE
Enumclaw, WA 98022	Tukwila, WA 98188	Enumclaw, WA 98022

TRANSMITTED this 3rd day of August, 2005, to the following parties and interested persons of record:

Mark Carson 255 Rayonier Ave. S Enumclaw WA 98022	Enumclaw Fire Dept. Attn: Jeremy Schlegel 1330 Wells St. Enumclaw WA 98022	Kim Furney 35631 Cumberland Way SE Enumclaw WA 98022
Barry Kombol Attorney At Law PO Box 100 Black Diamond WA 98010	Jeff Savage 4430 S. 160th St. Tukwila WA 98188	Ernest Seliger 35725 Veazie Cumberland Rd. Enumclaw WA 98022
Nancy Uhrich City of Des Moines 21630 - 11th Ave. S Des Moines WA 98198	Suzanne Chan DDES, Code Enf. MS OAK-DE-0100	Elizabeth Deraitus DDES/LUSD MS OAK-DE-0100
Trudy Hintz DDES/LUSD MS OAK-DE-0100	Sheryl Lux DDES/LUSD MS OAK-DE-0100	Patricia Malone DDES/LUSD MS OAK-DE-0100

Lamar Reed
DDES/LUSD
MS OAK-DE-0100

Jim Toole
DDES, Code Enf.
MS OAK-DE-0100

NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE JULY 11, 2005, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E0400489.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Jim Toole, representing the Department; Appellants Jeff Savage and Ernest Seliger; and Nancy Uhrich and Mark Carson.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 DDES staff report for July 11, 2005
- Exhibit No. 2 Copy of Notice and Order issued May 5, 2005
- Exhibit No. 3 Copy of Notices and Statements of Appeal received May 20, 2005, and May 24, 2005
- Exhibit No. 4 Copies of Codes cited in the Notice and Order
- Exhibit No. 5 Copy of area map, area map with special overlays; aerial photos (3) from 1998, 2000 and 2002; and iMAP property information of subject area
- Exhibit No. 6 Copies of violation letters (3) dated 11/30/04, 12/29/04 and 12/29/04
- Exhibit No. 7 Copies of Do Not Occupy notices and violation notices
- Exhibit No. 8 Copy of Inspection Request/Corrections document from the DDES , Building Inspections Section for the inspection of the cabin
- Exhibit No. 9 Copy of electrical inspection correction report and letter from the Department of Labor & Industries Electrical Section for the cabin
- Exhibit No. 10 Copy of letter from the Washington State Patrol re: illegal wrecking
- Exhibit No. 11 Photographs (color copies) of subject property: 15 pages taken 11/12/04, 6 pages taken 6/22/04, 18 pages taken 12/22/04, 6 pages taken 4/22/05 and 3 pages taken 6/15/05
- Exhibit No. 12 Photographs (color copies, 40 pages) of subject property taken July 7, 2005.
- Exhibit No. 13 Photographs (color copies, 2 pages) from previous code enforcement case